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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/576,676      05/23/2000      MOR HARCHOL-BALTER      MIT-118      3928

51414      7590      09/01/2006

GOODWIN PROCTER LLP  
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BOSTON, MA 02109-2881

EXAMINER
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RYMAN, DANIEL J

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/576,676	<b>Applicant(s)</b> HARCHOL-BALTER ET AL.	
	<b>Examiner</b> Daniel J. Ryman	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 7, 11-17, 20-22 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 6, 7, 11-17, 20-22 and 25-27 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 2, 3, 7, 12-14, 16, 17, 21, 22, 25 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Response, filed 15 August 2006, have been fully considered and are persuasive. The rejection of claims 1-3, 6, 7, 11-17, 20, 21 and 25-27 has been withdrawn.

### ***Claim Objections***

2. Claims 2 and 16 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 1 and 15, which claims 2 and 16 depend upon, respectively, recite: "(a) randomly or pseudorandomly selecting . . . only one second cooperating node." Claims 2 and 16 recite: "wherein step (a) comprises randomly choosing . . . [the] second node." Thus, claims 2 and 16 only require that step (a) include randomly choosing the second node where claims 1 and 15 already recite that step (a) includes a random selection of the second node. As such, claims 2 and 16 fail to further limit claims 1 and 15, respectively. Examiner notes that Applicant may be trying to claim that step (a) consists of randomly choosing the second node, i.e. that a node will randomly select rather than pseudorandomly select the second node; however, this concept has not been claimed.

3. Claims 3 and 17 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 1 and 15, which claims 3 and 17 depend upon,

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respectively, recite: “(a) randomly or pseudorandomly selecting . . . only one second cooperating node.” Claims 3 and 17 recite: “wherein step (a) comprises pseudo-randomly choosing . . . [the] second node.” Thus, claims 3 and 17 only require that step (a) include pseudo-randomly choosing the second node where claims 1 and 15 already recite that step (a) includes a pseudo-random selection of the second node. As such, claims 3 and 17 fail to further limit claims 1 and 15, respectively. Examiner notes that Applicant may be trying to claim that step (a) consists of pseudo-randomly choosing the second node, i.e. that a node will pseudo-randomly select rather than randomly select the second node; however, this concept has not been claimed.

4. Claims 7 and 21 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 1 and 15, which claims 7 and 21 depend upon, respectively, recite: “(b) transmitted . . . at least a portion of the cooperating node information available to the first node”. Claims 7 and 21 recite: “said at least a portion of the cooperating node information comprising all of the first node’s cooperating node information.” Here “at least a portion of the cooperating node information available to the first node” includes “all of the cooperating node information available to the first node” since “at least a portion of” encompasses everything from a portion to the entirety. As such, claims 7 and 21, by limiting “at least a portion of the cooperating node information” to “all of the first node’s cooperating node information” fails to further limit claims 1 and 15, respectively.

5. Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the

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claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 15, which claim 22 depends upon, recites: “performing, by each cooperating node in the network of nodes the steps of: [(a), (b), (c), and] (d) periodically repeating steps (a), (b), and (c).” Claim 22 recites: “wherein step (d) comprises periodically repeating steps (a), (b), and (c) by each of the cooperating nodes.” Thus, claim 22 requires that step (d) include repeating steps (a)-(c) by each of the cooperating nodes, whereas claim 15 requires that each of the nodes perform a step (d) comprising repeating steps (a)-(c). Simply, claim 22 fails to further limit claim 15 since claim 15 already requires steps (a)-(d) to be performed by each cooperating node.

6. Claim 2 is objected to because of the following informalities: in line 2, “a first node” should be “the first node” and “a second node” should be “the second node”. Appropriate correction is required.

7. Claim 3 is objected to because of the following informalities: in line 2, “a first node” should be “the first node” and “a second node” should be “the second node”. Appropriate correction is required.

8. Claim 12 is objected to because of the following informalities: in line 7, “(b1), d (b2)” should be “(b1), and (b2)”. Appropriate correction is required.

9. Claim 13 is objected to because of the following informalities: in line 6, “the selected cooperating node” should be “the second cooperating node” and, in line 8, “the selected cooperating node” should be “the second cooperating node”. Appropriate correction is required.

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10. Claim 14 is objected to because of the following informalities: in line 6, “the first cooperating node” should be “the cooperating node” and, in line 8, “first node” should be “node”. Appropriate correction is required.

11. Claim 16 is objected to because of the following informalities: in line 2, “a first node” should be “the first node” and “a second node” should be “the second node”. Appropriate correction is required.

12. Claim 17 is objected to because of the following informalities: in line 2, “a first node” should be “the first node” and “a second node” should be “the second node”. Appropriate correction is required.

13. Claim 25 is objected to because of the following informalities: in line 5, “step (c)” should be “step (d)”. Appropriate correction is required.

14. Claim 27 is objected to because of the following informalities: in lines 1-2, “after step (aa)” should be “after step (aa), but before step (d)”. Appropriate correction is required.

#### ***Allowable Subject Matter***

15. Claims 1-3, 6, 7, 11-17, 20-22, and 25-27 are allowed. The prior art does not disclose or fairly suggest randomly or pseudo-randomly selecting only one other node with which to exchange node information in a given period, as outlined in the Response filed 15 August 2006.

#### ***Conclusion***

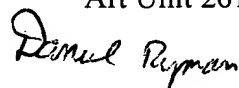
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 8:00am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel J Ryman  
Examiner  
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A handwritten signature in cursive script that reads "Daniel Ryman".